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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re P.B. et al., Persons Coming Under  
the Juvenile Court Law.

B262782  
(Los Angeles County  
Super. Ct. No. DK05608)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

Pr.B.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County. Teresa T. Sullivan, Judge. Affirmed.

Terence M. Chucas, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Dawyn R. Harrison, Assistant County Counsel, and Peter Ferrera, Principal Deputy County Counsel, for Plaintiff and Respondent.

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Pr.B. (Father) appeals from the juvenile court's dispositional order it issued after finding Father posed a substantial risk of future harm to two of his children, P.B., age 11 (Older Brother), and A.B., age 10 (Younger Brother) (collectively Brothers), because of his past abuse and domestic violence. Father contends there is insufficient evidence to sustain the jurisdictional finding and therefore the dispositional order limiting his contact with Brothers to monitored visits should be reversed. We disagree and affirm.

### **BACKGROUND**

S.S. (Mother) and Father lived together with Brothers in Pennsylvania until 2011 when Mother moved with Brothers to California. During this time, Mother alleged Father beat her and Brothers. Also during this period, local Child Protective Services investigated allegations Brothers were left outside for hours without supervision, but found no evidence of neglect. After Mother and Brothers moved, Father regularly communicated with Brothers between 2011 and January 2014. In January 2014, however, Father lost contact with Brothers because, he claims, Mother stopped accepting his calls and returning his messages.

In January 2014, an unidentified person called DCFS and said Mother was abusing methamphetamine and marijuana, often with numerous other adults, in the presence of Brothers and their half sister (collectively Children). The caller also said Children roamed unsupervised in the neighborhood. After an investigation into the allegations, DCFS filed a dependency petition in the superior court on March 18, 2014. DCFS argued the court had jurisdiction over Children under Welfare and Institutions Code section 300, subdivision (b) based on Mother's drugs use, her negligent supervision, and her creation of a dangerous home life.<sup>1</sup> That same day, the court released Children to Mother on the condition she submit to drug testing. Mother subsequently missed tests and tested positive three times for methamphetamine. The court detained Children from her on May 8, 2014. Brothers were released to Mother's father on May 22, 2014. After further investigation, DCFS filed an amended petition on June 23, 2014. The amended

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<sup>1</sup> Undesignated statutory references are to the Welfare and Institutions Code.

petition included an allegation against Father. It said Father had a history of driving under the influence (DUI) and had violated his probation, leading to his incarceration. Such behavior “endangers [C]hildren’s physical health and safety and places [C]hildren at risk of physical harm, damage and danger.” At a jurisdiction hearing on August 1, 2014, the court sustained only one of the amended jurisdictional grounds, which related to Mother, not Father; the court dismissed the remaining grounds, including the one relating to Father. The court scheduled a disposition hearing for October 31, 2014.

DCFS filed a section 342 petition on October 27, 2014. (§ 342 [allowing DCFS to file a petition alleging new facts or circumstances that bring a minor under section 300 after an initial section 300 petition has been filed].) The petition contained nine new jurisdictional grounds. DCFS alleged one section 300, subdivision (a) (physical harm), one section 300, subdivision (b) (failure to protect), and one section 300, subdivision (j) (abuse of sibling) ground on behalf of each brother based on the following facts: Father struck Brothers with a spatula, belt, and his hands, which made Brothers suffer, caused them to fear Father, and placed them in danger. DCFS alleged additional section 300, subdivisions (a) and (b) grounds based on the following facts: Father has a history of domestic violence against Mother, sometimes in the presence of Brothers, including Father punching Mother in the face, which bruised her; Father throwing Mother across a room; Father dragging Mother by her hair; Father kicking Mother in the chest; and Father brandishing a loaded firearm at Mother. DCFS also alleged another ground under section 300, subdivision (b): Father has a history of mental and emotional problems, including improperly treated schizophrenia, preventing him from being able to care for Brothers and placing them at risk of harm. The court held a detention hearing on the section 342 petition on October 27, 2014. The court determined Brothers remained dependents and ordered reunification services.

The court held a contested jurisdictional and dispositional hearing on January 30, 2015. Father did not appear. At a subsequent hearing on February 3, 2015, the court found true, with some amendments, the abuse and domestic violence jurisdictional grounds, but dismissed the mental illness ground. The court accepted four pieces of

Father's evidence into the record for dispositional purposes. These documents were certificates and verifications from alcohol, anger management, domestic violence, and parenting programs. The court ordered monitored visits for Father. Father appealed.

### **DISCUSSION**

On appeal, Father argues the dispositional order should be reversed because the court's jurisdictional findings were not supported by substantial evidence. We disagree and affirm.

We review jurisdictional findings under a substantial evidence test. (*In re Jeannette S.* (1979) 94 Cal.App.3d 52, 58.) Under a substantial evidence test, a finding "will be upheld if it is supported by substantial evidence" which is "reasonable in nature, credible, and of solid value," "even though substantial evidence to the contrary also exists and the trial court might have reached a different result had it believed other evidence." (*In re Dakota H.* (2005) 132 Cal.App.4th 212, 228.) Substantial evidence must show jurisdictional grounds existed at the time of the hearing such that the minors were persons described by section 300. (*In re Christopher M.* (2014) 228 Cal.App.4th 1310, 1318–1319; *In re Savannah M.* (2005) 131 Cal.App.4th 1387, 1395–1398.) In a section 300 analysis, evidence of a parent's "past conduct may be probative of current conditions," but "[t]here must be some reason to believe the acts may continue in the future." (*In re Nicholas B.* (2001) 88 Cal.App.4th 1126, 1134.) On appeal, Father "has the burden of showing there is no evidence of a sufficiently substantial nature to support the finding or order." (*Dakota H.*, at p. 228.) If a parent can show the jurisdictional grounds were not supported by substantial evidence, the dispositional orders based on those grounds are reversed.

DCFS presented substantial evidence Brothers fell under section 300 and are at significant risk of future harm because of Father's behavior. DCFS submitted statements from Mother and Brothers about Father's alleged abuse in its reports. As to Father's abuse of Brothers, Older Brother said, for example, Father "beat me and [Younger Brother] up for no reason" and "[o]nce he used a spatula and belt to whoop us. He smacks us with his hand." Younger Brother similarly said Father "beat on me for no

reason” and “hit me with a spatula on my back.” Mother likewise recounted Father “used to beat” Younger Brother, which left “welts on his legs.” As to Father’s domestic violence, Mother said Father “threw me over the dining room table and pulled me by my hair to [the] living room.” “I got away from him” but “he kicked me three times in the chest and sucker punched me three times in the face.” According to Mother, the police subsequently arrested Father. Neither Mother nor DCFS corroborated Father’s arrest with additional evidence, however. Mother also recalled that while she was pregnant with Younger Brother, Father “broke in through the kitchen window and he had a gun and said he should kill me right now.” Mother claims she was issued a Protection from Abuse order (PFA) after this incident, but neither she nor DCFS corroborated this claim. Both Brothers said they are afraid of Father and do not wish to live with him because of his abuse.

Father admitted he was convicted of a DUI. He also admitted he was incarcerated for violating his probation by getting in a fight with Brothers’ half sister’s father. He contends the record is otherwise devoid of proof of any bad behavior on his part, and we should discredit Mother’s and Brothers’ statements because they are liars. Father alleges Mother cannot be trusted because she is a long-time drug addict who has “a compelling reason to lie” because she knows Father is requesting custody. Father alleges Brothers are liars because they each “recalled” the incident where Father threatened Mother with a gun even though Older Brother was too young to remember and Younger Brother was not yet born. Father says Brothers “will say anything in an attempt to help” Mother.

As to Mother’s and Brothers’ credibility, it is not for us to question that credibility determination. While a different fact finder may have made a different determination, the court impliedly found Mother and Brothers credible by sustaining the petition. (*In re Sheila B.* (1993) 19 Cal.App.4th 187, 199–200 [“[i]ssues of . . . credibility are for the trial court”].) As to the sufficiency of the evidence, although proof of Father’s arrest for domestic violence and Mother’s PFA would have corroborated Mother’s and Brothers’ stories, that proof was not necessary under *In re Sheila B.*, which holds that “[t]he testimony of a single witness is sufficient to uphold a judgment [citation], and an

appellate court may not evaluate that testimony as a basis for reversal. [Citation.]” (19 Cal.App.4th at p. 200.)

Father, however, believes *In re Sheila B.* instead requires “indisputable evidence” to support the juvenile court’s jurisdictional findings. He is mistaken. In *In re Sheila B.*, the child recanted her allegations her grandfather sexually abused her. (*In re Sheila B.*, *supra*, 19 Cal.App.4th at pp. 192–193.) After she recanted, there was little or no evidence in the record supporting her allegations: the medical evidence was not definitively corroborative and the court found her statements, in aggregate, otherwise unpersuasive. (*Id.* at p. 193.) The juvenile court accordingly dismissed the petition. (*Ibid.*) On appeal, the appellate court said it could not overturn the *dismissal*, which was based on unreviewable fact and credibility determinations, absent indisputable evidence the court should have sustained the petition. (*Id.* at p. 200.) Here, the situation is different. The juvenile court *sustained* the petition based on Mother’s and Brothers’ multiple, not recanted, and matching allegations of Father’s violence. The *In re Sheila B.* language Father cites to therefore simply does not apply here. In contrast, *In re Sheila B.*’s general single witness testimony principle is applicable. Given Mother’s and Brothers’ multiple allegations of Father’s serious abuse and Mother’s and Brothers’ resistance to have Father gain custody, we find their statements are substantial evidence and gave the court proper jurisdiction over Brothers under section 300.

Father argues that even if we sustain the abuse allegations, we should nonetheless strike the jurisdictional grounds because DCFS failed to demonstrate Father’s past abuse constitutes a current or future threat. (See *In re Nicholas B.*, *supra*, 88 Cal.App.4th at p. 1134 [“[t]here must be some reason to believe the [abusive] acts may continue in the future”].) He argues several facts show he is no longer a threat: he participated in programs for anger management, parenting, domestic violence, and alcohol; his daughter lives with him; he has had no child abuse allegations against him since the Child Protective Services investigation in Pennsylvania; and he claims Mother agreed to allow Brothers to live with him in the future. Father fails to consider, however, that he has not lived with or near Brothers in years, and the last time he did, Mother and Brothers say he

violently beat and threatened them. Mother also suggested Father's abuse may be particularly directed at Younger Brother. Mother said Father "'couldn't break'" Younger Brother of "'carry[ing] himself so mature'" and Younger Brother "'got it the worst'" because Father "'looked at little [Older Brother] like, 'That's my first son.''" Father has offered no evidence showing his relationship with or feelings toward Younger Brother have changed. While Father offered some evidence suggesting his parenting abilities may have changed, this evidence is insufficient to outweigh Mother and Brothers' collective testimonies about Father's multiple acts of serious violence and Brothers' explicit statements that they are *currently* afraid Father will continue to abuse them and do not want to live with him.

Finally, Father argues the court erred in ordering monitored visitation because it will significantly limit, or perhaps even eliminate, his ability to see Brothers because Father lives out of state. Given the abuse-based jurisdictional findings, we uphold the court's order for monitored visitation.

### **DISPOSITION**

The juvenile court's dispositional order limiting Father's contact with P.B. and A.B. to monitored visitation is affirmed.

NOT TO BE PUBLISHED.

LUI, J.

We concur:

ROTHSCHILD, P. J.

CHANEY, J.